

## MANAGEMENT AGREEMENT

This agreement is made on \_\_ / \_\_ / \_\_\_\_ between

The Owners, Unit Plan No. \_\_\_\_ (the Corporation), a body corporate established pursuant to Division 5.1 of the Unit Titles Act 2001 (the Act) and

\_\_\_\_\_, a person qualified under section 55 of that Act to be appointed as an owners corporation manager(the manager).

### Reference Schedule

<b>The Corporation:</b>	
<b>ABN</b>	
<b>Address</b>	
<b>Facsimile</b>	
<b>Email</b>	
<b>Primary Contact Person</b>	
<b>Preferred Contact Method</b>	
<b>Secondary Contact Person</b>	
<b>Preferred Contact Method</b>	

<b>The Manager:</b>	
<b>Licence Number (if applicable)</b>	
<b>ACN</b>	
<b>ABN</b>	
<b>Postal Address</b>	
<b>Telephone</b>	
<b>Facsimile</b>	
<b>Email</b>	

<b>Conditions:</b>	
<b>Commencement Date</b>	
<b>Expiry Date</b>	
<b>Review Period</b>	
<b>Review Date</b>	
<b>Annual Fee for Schedule A Services</b>	
<b>Fee Review Date</b>	
<b>Payment Terms</b>	

## **1. WARRANTY BY THE MANAGER**

The strata manager can enter? this contract because it complies with, and will continue to comply with the conditions requisite to appointment as an owners corporation manager as required by Division 4.2 of the Unit Titles (Management) Act 2011 for the term of the appointment.

## **2. WARRANTY BY THE OWNERS CORPORATION**

The owners corporation can enter? this contract because it passed a resolution at meeting of the corporation held on \_\_/\_\_/\_\_\_\_, which approved pursuant to section 50 of the Act for the appointment of the manager to exercise the functions of the corporation on the terms set out in Schedules A and B, subject to these provisions.

## **3 APPOINTMENT AND AUTHORISATION**

The Corporation appoints the Manager as the owners corporation manager to exercise the functions of the owners corporation as defined in the schedules for the period of this contract for the agreed fees.

## **4. TERM OF APPOINTMENT**

The parties acknowledge that section 51 of the Act precludes appointment for a period longer than three years, but permits re-appointment, and agree that unless otherwise stated in the Conditions, the appointment commences on the commencement date set out in the Conditions and will remain in force, subject to Clause 12, until the expiry date set out in the Conditions.

## **5 REVIEW OF FEES**

The fees and hourly rates for services set out in attached Schedules A and B will be reviewed at the Fee Review Date stated in the Conditions. The fees and rates to apply from that date until the next following review date will be varied by amounts or percentages agreed between the parties or, in the absence of such agreement increased or decreased in line with the Consumer Price Index applicable for the ACT during the just concluded review period.

## **6 AUTHORITY TO PAY**

The Manager is authorised to disburse Owners Corporation funds for the purpose of:

- (a) carrying out the duties specified in Schedule A in accordance with the administrative and sinking fund budgets approved by the corporation;
- (b) paying moneys in accordance with a budget approved by the Owners Corporation;
- (c) payment of insurance premiums;
- (d) payment of the cost of repairs and maintenance carried out with the authority of the Owners Corporation;
- (e) payment of all other day to day expenses incurred by the Owners Corporation;
- (f) payment of Manager's fees, disbursements and expenses.

## **7 OBLIGATIONS OF THE MANAGER**

The Manager must:

- (a) perform the services set out in Schedule A for the fee set out in the Conditions;
- (b) perform if requested by the Owners Corporation or the Executive Committee of the Owners Corporation or where the service is deemed by the Manager to be a matter of

necessity the services set out in Schedule B for an additional fee for the actual services as set out in Schedule B;

- (c) disclose to the Owners Corporation any discounts, rebates or commissions paid to it in the course of providing the services as set out in the schedules, and, except as provided for in section 9, within thirty days of receipt, pay those amounts in full to the owners corporation account;
- (d) Act in accordance with the provisions of sections 55, 56 and 57 of the Act.
- (e) Ensure that any employee engaged to provide or carry out the services listed in the schedules are trained and instructed to avoid the commission of remedial breaches and to comply with the prescribed code of conduct.

## **8 OBLIGATIONS OF THE OWNERS CORPORATION**

The Owners Corporation must:

- (a) make the manager aware of the defects in the owners corporation property and make prompt decisions in relation to any necessary repairs maintenance or other works;
- (b) ensure that the owners corporation has at all times raised sufficient funds to enable the owners corporation to carry out its duties and functions;
- (c) pay to the manager the Annual Fee for Schedule A Services and the fees provided for in Schedule B and as reviewed pursuant to Clause 5;
- (d) reimburse the Manager for disbursements and expenses reasonably incurred by the manager
- (e) pay the manager the excess charges for AGMs that exceed 1 and a half hours duration or are conducted outside normal hours as provided for in Schedule A;
- (f) in addition to the agreed annual fee for Schedule A services, permit the manager to retain the fees paid by applicants for access to the Owners Corporation's records under sections 72 to 75 of the Act in accordance with the scale of fees approved by the Owners Corporation pursuant to section 75 (4) of the Act;
- (g) provide for delegation of functions and powers of the owners corporation and or the executive committee necessary to the exercise of functions listed in Schedules A and or B; noting that there is no delegation of any owners corporation or executive committee function or power unless specifically noted at Schedule A or B.
- (h) ensure the manager is kept informed of any changes to the owners corporation contact persons or preferred contact methods.

## **9. INSURANCE AND COMMISSIONS**

1. The manager shall ensure that the owners corporation is provided with expert and objective advice regarding the extent and amounts of insurance cover needed to adequately protect its assets and discharge its obligations under the Act. Such advice will extend to and include recommendations as to the insurers whose policies represent best value for money.
2. Provided compliance with sub-clause 9.1 can be demonstrated, the owners corporation agrees that the manager may retain the amount of any commission it receives for arranging the owners corporation insurance up to the limit shown in Schedule A.

## **10 RESPONSIBILITY FOR REPAIRS AND MAINTENANCE**

1. The owners corporation manager is not liable to the owners corporation if the owners corporation manager fails to do any act it is obliged to do under this Agreement if claim, liability or loss arises from

- (a) inherent defect or danger in the owners corporation's property whether as designed or constructed;
- (b) the owners corporation's failure to supply adequate information, advice or direction when requesting work to be performed by the owners corporation manager;
- (c) the services provided by 3rd parties including those instructed by the owners corporation or the manager; and
- (d) the handling of goods, products or chemicals,  
except to the extent that the liability is caused or contributed to by the manager's negligence, default, dishonesty or fraud.

.2. In the case of an emergency, burst water, blockages, fire, and the like, or failures, the manager is authorised to take steps to rectify the problem and give immediate notice to the owners corporation.

3. Other than to the extent necessary to exercise the services set out in Schedules A and B, the manager is not required to make itself aware of any defects in the owners corporation property, failure to comply with Building or other Regulations or town planning requirements, or the existence of any danger or hazard.

## **11 INDEMNITY OF THE MANAGER**

The owners corporation will indemnify the manager against all actions, claims, demands, losses, costs, damages and expenses (including without limitation reasonable legal costs on a solicitor and own client basis) ("the loss") in relation to or arising from: death, bodily injury or damage to property suffered by any person or persons whatsoever including members and occupiers of the property or part thereof except to the extent that the event happens because of any act or omission in the management of the corporation by the manager.

## **12 TERMINATION OR ENDING OF THE AGREEMENT**

1. The agreement may be terminated or ended at any time with the mutual consent of the parties.

2. The agreement may be terminated pursuant to the provisions of Division 5.3A of the Unit Titles Act.

3. The agreement will terminate at the next Review Date if a party gives to the other not less than three (3) months written notice. In the absence of notice of intent to terminate, the Review Date will be extended by another Review Term or until the Expiry Date which ever first occurs.

## **13. ASSIGNMENT OF CONTRACT**

1. The owners corporation manager may apply to transfer or assign this Agreement to another party that is qualified to be appointed as an owners corporation manager, provided the manager can demonstrate to the owners corporation that the proposed transferee is

- (a) competent, experienced, financially sound and
- (b) that the terms of the Agreement with the transferee would be on the same terms as this Agreement, or on terms that do not give the owners corporation lesser rights or poorer standards of service than those it has under this Agreement.

2. If the executive committee is of the view that the that the assignment of this Agreement is not in the best interests of the owners corporation, it must inform the owners corporation manager in writing within 28 days that it will not seek the owners corporation's agreement to the assignment and that it terminates this Agreement either forthwith or on a date specified.

3. If the executive committee accepts that the transfer of this Agreement is in the best interests of the owners corporation, it must inform the owners corporation manager in writing within 28 days that it is seeking the agreement of the owners corporation at a general meeting to the transfer of the residual period of this Agreement to the proposed transferee and the proposed date of that meeting.

4.. The costs of calling a general meeting are to be borne by the proposed transferee, so long as the only business of the meeting is to approve the minutes of the last general meeting and consider resolutions relating to the transfer of the residual period of this Agreement to the proposed transferee. If other business is considered, the proposed assignee will bear the appropriate proportion of the costs of calling the general meeting.

5. If this Agreement has less than 6 months to run at the time the owners corporation manager seeks to transfer this Agreement, the owners corporation may terminate this Agreement forthwith.

#### **14. OBLIGATIONS FOLLOWING NOTICE OF TERMINATION**

In the event that the agreement is terminated, the owners corporation will remunerate the manager;

- (a) pro-rata for services performed under Schedule A up to the end of the appointment.
- (b) for any outstanding disbursement fees or fees relating to work carried out under Schedule B.
- (c) on demand by the manager supply money to repay any loans to it from the manager, or to make good any overdrawn bank accounts in care of the manager and to pay any moneys due or which will become due to any third party where the manager holds a responsibility whether directly or indirectly for payment.

The manager will make available for collection by a person or company authorised in writing by the owners corporation all records and property of the owners corporation including a statement of income and expenditure up to the end of the appointment.

#### **15. CONTRACTS**

The Owners corporation acknowledges that the owners corporation will be nominated as the principal in respect of any contracts or agreements entered into.

#### **16. GST**

The fees and disbursement fees are inclusive of GST at a rate of 10%; and will increase or decrease appropriately if the rate of GST changes. GST exclusive fees and disbursements payable to the manager shall remain unchanged should the GST rate change.

#### **17. ENTIRE AGREEMENT**

This document embodies the entire agreement between the parties and any previous or simultaneous negotiations, representations and agreements are superseded by this Agreement.

#### **18. SEVERANCE**

In the event that any condition or provision of this agreement is held to be invalid or unenforceable for any reason whatsoever that condition or provision shall be read down to the extent necessary to give it, if possible, partial operation, but if that is not possible the condition or provision may be severed and the remainder of this agreement shall remain in full effect.

**19. GOVERNING LAW**

This Agreement is governed by the laws of the Australian Capital Territory.

**20. SPECIAL CONDITIONS**

Nil

**SIGNATURES**

**Owners Corporation**

The common seal of the Owners Corporation was affixed by authority in the presence of

Signature

Signature

Name (please print)

Name (please print)

Authorised position

Authorised position

**Manager**

Executed on behalf of the manager by

Signature of Director/Company Secretary

Signature of Director

Name (please print)

Name (please print)

**THE AGENTS ACT 2003**  
**(Section 100)**

1. A copy of the Agreement signed by the Manager is to be given to the Owners Corporation within 48 hours after the Agreement was signed by the Owners Corporation.
2. A Court in which a proceeding is taken by the Manager to recover commission or expenses from the Owners Corporation may order that the commission or expenses be completely or partly recovered even through the Manager has failed to comply with 1.
3. However, the Court may make the order only if satisfied that:
  - (a) the Manager's failure to give a copy of the Agreement to the Owners Corporation within 48 hours was either inadvertent or caused by something beyond the Manager's control; and
  - (b) the commission or expenses to be recovered if the order is made are fair and reasonable; and
  - (c) failure to make the order would be unjust.

## **SCHEDULE A – DUTIES COVERED BY ANNUAL MANAGEMENT FEE**

**Note: The functions and rates shown in this Schedule are intended to be indicative only. Owners corporations need to consider their particular requirements..**

### **ACCOUNTING**

1. Maintain and operate the Owners Corporation bank account.
2. Keep books of account covering all income and expenditure and assets and liabilities of the Owners Corporation;
3. Prepare annual financial statements of all income and expenditure and assets and liabilities of the Owners Corporation (the annual accounts);
4. Prepare draft budget for the administrative fund as required by Division 5.2 of the Act for approval by the executive committee and consideration by the AGM;
5. Prepare draft sinking fund plans in accordance with Division 5.2 of the Act for approval by the executive committee and consideration by the AGM
6. Distribute levy notices for administrative and sinking fund contributions to owners as determined by the Owners Corporation;
7. Send out reminder notices for outstanding levies;
8. Receive levies and deposit into Owners Corporation bank account;
9. Pay invoices and insurance premiums on behalf of the Owners Corporation (provided the Owners Corporation account holds sufficient funds);
10. Reconciliation of bank account;
11. Prepare and submit to Treasurer monthly/quarterly/six-monthly\* statements of incomes and expenditures against approved budget; \* *Cross out or insert period as required*
12. Prepare and lodge quarterly BAS statements as applicable.
13. Complete annual taxation return as applicable.

### **INSURANCE**

1. Arrange an annual valuation of the cost of reinstatement and replacement of the assets insured by the Owners Corporation pursuant to Section 132 of the Unit Titles Act 2001 in time for any variations to be taken into account in the preparation of the budget to be submitted to the AGM;
2. Arrange insurance cover in accordance with Owners Corporation decisions;
3. Agreement how the managers insurance commission will be dealt with eg  
the manager will retain it  
the manager will pay all of it to the owners corporation  
the manager will retain a percentage and pay the remainder to the owners corporation.
4. Prepare and lodge routine insurance claims with insurers/brokers (max. 30 minutes).
5. Arrange for Owners Corporation Public Risk Insurance as required by section 102 of the Act.



## **DOCUMENTATION**

1. Maintain the corporate register of the Owners Corporation in accordance with Part 7 of the Act.
2. Provide access to the corporate register to the Executive Committee at all times in the manner agreed between the executive committee and the Manager.
3. Provide certificates and access to the corporate register in accordance with Part 7 of the Act for affixing of the corporate seal in the presence of the executive committee.
4. Ensure that Owners Corporation records are properly preserved and protected, and that no access is given to them other than as provided in paras 2 and 3 above except as may be necessary to allow workmen to contact an owner to arrange for repairs or maintenance to be done.
5. Deal with routine inwards and outward correspondence;
6. Maintain and ensure the security of the common seal;
7. Maintain the records of the Owners Corporation including minutes and postal ballots.

## **ANNUAL GENERAL MEETINGS**

1. Notify members of the owners corporation of date and venue agreed by the Executive Committee; invite submissions for inclusion in agenda as requested by the Executive Committee;
2. Prepare draft agenda for approval by Executive Committee;
3. Distribute agenda, budget, financial and annual report documentation for AGM;
4. Attend Annual General Meetings;
5. Record minutes of the Annual General Meeting, agree these with the incoming executive committee and distribute to owners corporation members;
6. Agree any rate of payment that will apply to meetings held either within or outside office hours.

## **MAINTENANCE**

Arrange for routine and minor repairs and maintenance of Owners Corporation property (max 60 minutes per incident).

## **ADVICE**

Provide general advice to the Owners Corporation as to meeting procedures and the Act and Regulations and as may otherwise be required for the Owners Corporation to carry out and perform its duties and functions under the Act and the Regulations.

## **GENERAL**

Generally implement the decisions of the Body Corporate with respect to its duties and functions under the Act and the Regulations.

## **SCHEDULE B – OTHER DUTIES CARRIED OUT BY MANAGER AT REQUEST OF EXECUTIVE COMMITTEE (OR AS REQUIRED) AND ASSOCIATED CHARGES**

*Note: The functions and rates shown in this Schedule are intended to be indicative only. Owners corporations need to consider their particular requirements and how much they are prepared to pay for what services.*

### **Executive Committee Meetings**

1. Prepare and distribute notices of executive committee meetings
2. Attend executive committee meetings held during regular meeting hours
3. Attend executive committee meetings held outside regular meeting hours
4. Prepare and distribute minutes of meetings

Charge per hour.

Minimum Charge.

### **General Meetings other than Annual General Meetings**

1. Prepare and distribute notices of General Meetings
2. Attend General Meetings held during regular meeting hours
3. Attend General Meetings held outside regular meeting hours\*
4. Prepare and distribute minutes of General Meetings

Charge per hour.

Minimum Charge.

### **Reduced Quorum Decisions**

1. Prepare and distribute notices in accordance with Schedule 3 of the Act.
2. Charge as for Annual General Meetings or general meetings as appropriate.

Charge per hour.

Minimum Charge.

### **Property Inspections**

1. Arrange building inspections and reports when requested by Body Corporate.

Charge per hour.

Minimum Charge.

### **Repairs and Maintenance**

1. Following direction from Executive Committee arrange for appropriately qualified contractors to undertake repairs/maintenance to the common property and/or specified

owners corporation property that require either an on site visit from manager or significant time (in excess of 60 minutes per incident) to organise.

Charge per hour.

Minimum Charge.

2. Following direction from executive committee obtain quotations for repair, maintenance and replacement of common property or specified personal property vested in the owners corporation where an on-site meeting is required.

Charge per hour.

Minimum Charge.

### **Insurance**

1. Prepare and lodge non-routine insurance claims (ie in excess of 30 minutes to lodge)

2. Claims administration and other activities involved in minimisation of loss, liaison with loss adjustors and other related activities.

Charge per hour.

Minimum Charge.

### **Accounting**

1. Additional financial reports or reports prepared to specific requirements.

Charge per hour.

Minimum Charge.

### **Postal**

1. For any posting/delivering of items that is required (other than for items on Schedule A) to be charged at the rate of \$1.50 per item.

Postal items will be sent as requested by the executive committee or on an "as needs basis".

### **General**

1. Represent the owners corporation in tribunal or court proceedings.

2. Preparation and lodgement of applications for mediation, adjudication, tribunal orders, briefing lawyers and/or relevant attendances.

3. Lodging of alteration/additions to article of the Owners' Corporation.

4. Any other service as negotiated between the Owners' Corporation and the Manager.

Charge per hour.

Minimum Charge.